

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff,</i>)	
)	Civil Action No. 2:07-0329
v.)	
)	Filed: May 22, 2007
)	
DAILY GAZETTE COMPANY,)	Judge Copenhaver
)	
and)	Magistrate Judge Stanley
)	
MEDIANEWS GROUP, INC.)	
)	
<i>Defendants.</i>)	
)	

**THE UNITED STATES' MOTION TO ALLOW THE PARTIES TO TAKE
ADDITIONAL DEPOSITIONS PURSUANT TO LOCAL RULE 26.1(c) AND
FEDERAL RULE OF CIVIL PROCEDURE 30(a)(2)(A)**

The United States respectfully moves this Court for leave to permit each side to notice and take twenty-five depositions pursuant to Local Rule 26.1(c), Federal Rule of Civil Procedure 30(a)(2)(A), and this Court's July 3, 2008 Scheduling Order. In support hereof, the United States states as follows:

1. The Plaintiff and Defendants have discussed on multiple occasions the United States' request that each side be allowed to take twenty-five depositions. During the July 3, 2008 scheduling conference, and on several occasions prior to and thereafter, the United States has repeated its position that the discovery limits should be modified to allow twenty-five fact depositions. *See, e.g.*, July 3, 2008 Hr'g Tr. at 13. Defendants informed the United States on

September 11, 2008, that they would not agree to modify the ten deposition limit in the Federal Rules of Civil Procedure.

2. The United States' request to modify the deposition limits is fair and necessary to develop its case and meet its burden of proof. In the accompanying Memorandum, the United States describes the various categories of witnesses it needs to depose, including executives of Charleston Newspapers, Daily Gazette Company, and MediaNews Group; non-party witnesses, including advertisers, subscribers, lenders, consultants, and media executives in Charleston and elsewhere; and former employees of the Defendants and of Charleston Newspapers. As this Court observed in its June 19, 2008 Memorandum Opinion and Order, "[t]he importance of a fully developed record is [] particularly significant here in view of the distinctive media combination involved." Mem. Op. and Order at 16. It would be unfair and inconsistent with the Court's fact-finding duties to limit the United States to ten depositions in an antitrust case that the Defendants have conceded "raises complicated factual issues that would require substantial discovery." Def's Mot. For Stay Pending Resolution of Mot. to Dismiss, at 3.

3. For the reasons more fully developed in the Memorandum, the United States' request is fully warranted and will pose no undue burden on the Defendants. A proposed order granting the United States' motion is attached to this Motion.¹

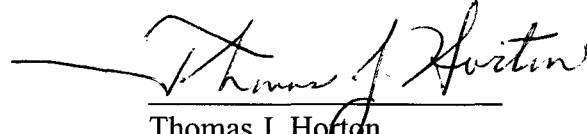
WHEREFORE, the United States respectfully requests leave of this Court for each side to take twenty-five fact depositions, excluding expert depositions.

¹ By this motion, the United States seeks leave for each side to take twenty-five fact depositions, excluding expert depositions. Given that the disclosure of expert witnesses will not occur until after the close of fact discovery, we understand the Court's July 3, 2008 scheduling order to provide that expert depositions are not to be counted against the deposition limits imposed by Fed. R. Civ. P. 26(b)(2), 30(a)(2) and L. R. 26.1(c). *See* Order at 4.

Respectfully submitted,

/s/ Stephen M. Horn

Charles T. Miller
United States Attorney
Southern District of West Virginia
by Stephen M. Horn
Assistant United States Attorney
WV State Bar Number 1788
P.O. Box 1713
Charleston, WV 25326
Tel: (304) 345-2200
Fax: (304) 347-5443
E-mail: steve.horn@usdoj.gov



Thomas J. Horton
Bennett J. Matelson
William H. Jones II
Mark A. Merva
Matthew J. Bester
Deborah Roy

Bernard M. Hollander
Senior Trial Attorney

U.S. Department of Justice
Antitrust Division
450 Fifth Street, N.W.,
Suite 4000
Washington, D.C. 20530

Tel: (202) 616-5935
Fax: (202) 514-7308
E-mail: Thomas.Horton@usdoj.gov

Attorneys for the United States

September 15, 2008